

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JOHN GRAINGER *et al.*,

Plaintiffs,

v.

WAYNE SOLOMON *et al.*,

Defendants.

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**No. 3:07-cv-91
(Phillips)**

MEMORANDUM AND ORDER

Pending before the court are plaintiffs' Withdrawal of Jury Demand [Doc. 30], Plaintiffs' Motion in Limine to Exclude Testimony Relating to Parties' Citizenship and Wealth [Doc. 32], and Plaintiffs' Motion in Limine to Exclude Testimony Relating to Negligence [Doc. 33].

With regard to plaintiff's motion styled Withdrawal of Jury Demand, Rule 38 of the Federal Rules of Civil Procedure provides that "[a] proper demand may be withdrawn only if the parties consent." Fed. R. Civ. P. 38(d). Plaintiffs properly demanded a jury. [Doc. 1 at 7]. Defendants have not, however, consented to the withdrawal of this jury demand; indeed, in their answer in consolidated case 3:08-cv-293, the defendants have demanded a jury, [Doc. 53 at 10], an indication of their lack of consent to plaintiffs' withdrawal of jury demand. Accordingly, the court finds the withdrawal is not well taken, and the motion [Doc. 30] is **DENIED**.

With regard to plaintiffs' motions in limine, the case was consolidated and continued after plaintiffs filed these motions. [See Docs. 39, 40]. The court finds a ruling on plaintiffs' motions would be premature before all pretrial preparations are finalized. Accordingly, the

motions [Doc. 32, 33] are **DENIED**, subject to renewal at the completion of discovery in anticipation of trial.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge